



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 161223999-7367-02]

RIN 0648-BG61

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule announces the approval of the Pacific Halibut Catch Sharing Plan (Plan) and codified regulations for the International Pacific Halibut Commission's (IPHC or Commission) regulatory Area 2A off Washington, Oregon, and California (Area 2A). In addition, NMFS announces the implementation of the portions of the Plan and management measures that are not regulated through the IPHC, including the sport fishery allocations and management measures for Area 2A. The intent of this final rule is to conserve Pacific halibut, provide angler opportunity where available, and minimize bycatch of overfished groundfish species.

DATES: This rule is effective [*insert date of publication in the FEDERAL REGISTER*]. The 2017 management measures are effective until superseded.

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way, NE, Seattle, WA 98115. For information regarding all halibut fisheries and

general regulations not contained in this rule contact the International Pacific Halibut Commission, 2320 W. Commodore Way Suite 300, Seattle, WA 98199-1287. Electronic copies of the Regulatory Impact Review (RIR) and Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained by contacting Gretchen Hanshew, phone: 206-526-6147, email: *gretchen.hanshew@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206-526-6147, fax: 206-526-6736, or e-mail: *gretchen.hanshew@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act (Halibut Act) of 1982, 16 U.S.C. 773-773K, requires the Secretary of Commerce (Secretary) to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention between the United States and Canada (Halibut Convention) (16 U.S.C. 773c) and the Halibut Act. Section 773c of the Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the IPHC to govern the Pacific halibut catch in their corresponding U.S. Halibut Convention waters.

Each year between 1988 and 1995, the Pacific Fishery Management Council (Council) developed and NMFS implemented a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut in Area 2A between treaty Indian and non-Indian harvesters, and among non-Indian commercial and sport fisheries. In 1995, NMFS implemented the Council-recommended long-term Plan (60 FR 14651; March 20, 1995). Every year since, the Council has recommended and

NMFS has approved minor revisions to the Plan to adjust for the changing needs of the fisheries.

For 2017, the Council recommendation includes minor modifications to sport fisheries to maximize harvest opportunities while keeping total catch within the available quota and changes to the inseason procedures to allow flexibility to address bycatch concerns. The IPHC recommended an Area 2A TAC for 2017 of 1,330,000 pounds (lb) (603.28 metric tons (mt)), which was included in the IPHC regulations approved by the Secretary of State and published by NMFS on March 7, 2017 (82 FR 12730). On February 23, 2017, NMFS published a proposed rule to approve the Council's recommended changes to the Plan and recreational management measures for Area 2A (82 FR 11419), including allocations consistent with the 2017 Area 2A TAC. NMFS also proposed changing the codified regulations to make them consistent with the Council's recommended changes to the inseason provisions of the Plan. This final rule includes these components of the proposed rule, and also contains dates for the sport fisheries based on the 2017 Plan and dates submitted by the state of California following publication of the proposed rule.

Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, WA

The Plan provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, WA, will be allowed when the Area 2A TAC is greater than 900,000 lb (408.2 mt), provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). The Area 2A TAC for 2017 is high enough to allow incidental retention of halibut in this fishery. The Council recommended specific Pacific halibut landing restrictions for the sablefish primary

fishery at its March 2017 meeting. NMFS will publish the restrictions in a separate **Federal Register** notice, as an inseason action in the groundfish fishery by April 1, 2017, or as soon as possible thereafter.

Comments and Responses

NMFS accepted public comments on the Council's recommended modifications to the Plan and the resulting proposed domestic fishing regulations through March 15, 2017. NMFS received one comment letter from the California Department of Fish and Wildlife (CDFW) recommending final recreational fishing season dates for the 2017 season. Based on the increased TAC and greater fishing effort, CDFW recommended season dates of May 1 - June 15, July 1 - July 15, August 1 - August 15, and September 1 - October 31, until quota has been attained or until October 31, whichever comes first. This 2017 season recommendation is 16 days longer than the 2016 season dates, with most of the additional open days in the month of May. CDFW expects catches to be higher than the historically low numbers of previous years, but does not expect the California sport fishery allocation to be exceeded. Inseason tracking and monitoring of catches will continue on a weekly basis. NMFS concurs that the CDFW-recommended season dates are appropriate, and California sport fishery season dates are updated in this final rule.

Changes from the Proposed Rule

As described in the proposed rule, additional stakeholder meetings took place during the winter. CDFW, in cooperation with their stakeholders, considered and recommended final sport fishery season dates. Washington and Oregon season dates were published in the proposed rule; this final rule includes the final California season dates in

addition to the Washington and Oregon dates, as described above in Comments and Responses.

This final rule includes introductory text at paragraph (8) that was mistakenly omitted in the proposed rule.

The proposed rule included a new paragraph added at § 300.63(c)(2)(vi). The proposed text included the acronym “YRCA,” which was used for the first time in § 300.63 but the proposed regulatory text did not define the acronym. This final rule includes a non-substantive revision at § 300.63(c)(2)(vi), adding the definition of the Yelloweye Rockfish Conservation Area to the regulatory text, and removes the definition of the acronym from later in that same section, at § 300.63(e)(2). The proposed rule also mistakenly omitted a cross-reference to Pacific coast groundfish regulations at § 660.70(g) and (h). These two paragraphs define the boundaries for two Stonewall Bank YRCA expansions, which increase the size of the area closed by the standard Stonewall Bank YRCA (defined at § 660.70(f)). For clarity, cross-references to the definitions of the two possible YRCA expansions that may be implemented inseason are added in this final rule. These changes to § 300.63(c)(2)(vi) are not substantive and do not change the intent or meaning of the regulation described in the proposed rule.

2017 Sport Fishery Management Measures

The sport fishing regulations for Area 2A, included in section 26 (referring to the relevant section of the IPHC regulations) below, are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were developed by the Council and promulgated by the United States under the Halibut Act. Section 26 refers to a section that is in addition to and corresponds to the numbering in the IPHC regulations

published on March 7, 2017 (82 FR 12730). The Plan is published in the **Federal Register** but is not codified in the Code of Federal Regulations.

In section 26 of the annual domestic management measures, “Sport Fishing for Halibut” paragraph (8) is revised to read as follows:

* * * * *

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the inseason actions consistent with 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a “port of landing” basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(a) The quota for the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long. is 64,962 lb (29.47 mt).

(i) The fishing seasons are:

(A) Fishing is open May 4, 6, and 11. Any openings after May 11 will be based on available quota and announced on the NMFS hotline.

(B) If sufficient quota remains, the fishery will reopen on May 21 and/or May 25; June 1, and/or June 4, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. After May 11, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 11 unless the date is announced on the NMFS hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.) (North Coast subarea), is 115,599 lb (52.43 mt).

(i) The fishing seasons are:

(A) Fishing is open May 4, 6, and 11. Any openings after May 11 will be based on available quota and announced on the NMFS hotline.

(B) If sufficient quota remains, the fishery will reopen on May 21 and/or May 25; June 1, and/or June 4, or until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. After May 11, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 11 unless the date is announced on the NMFS hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at 50 CFR 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.), and Leadbetter Point, WA (46°38.17' N. lat.) (South Coast subarea), is 50,307 lb (22.82 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

- (1) 47°31.70' N. lat., 124°37.03' W. long.;
- (2) 47°25.67' N. lat., 124°34.79' W. long.;
- (3) 47°12.82' N. lat., 124°29.12' W. long.; and
- (4) 46°58.00' N. lat., 124°24.24' W. long.

The south coast subarea quota will be allocated as follows: 48,307 lb (21.91 mt) for the primary fishery and 2,000 lb (0.91 mt) for the nearshore fishery. The primary fishery season dates are May 4, 6, and 11. If the primary quota is projected to be obtained sooner than expected, the management closure may occur earlier. If sufficient quota remains the primary fishery will reopen on May 21 and/or May 25; June 1, and/or June 4 until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on the first Saturday subsequent to closure of the primary fishery, and is open 7 days per week, until 50,307 lb (22.82 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or

September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30-fm depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.), and Cape Falcon, OR (45°46.00' N. lat.) (Columbia River subarea), is 12,799 lb (5.81 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 pounds of the subarea allocation. The nearshore fishery extends from Leadbetter Point ($46^{\circ}38.17'$ N. lat., $124^{\circ}15.88'$ W. long.) to the Columbia River ($46^{\circ}16.00'$ N. lat., $124^{\circ}15.88'$ W. long.) by connecting the following coordinates in Washington $46^{\circ}38.17'$ N. lat., $124^{\circ}15.88'$ W. long., $46^{\circ}16.00'$ N. lat., $124^{\circ}15.88'$ W. long. and connecting to the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 2, and continues 3 days per week (Monday – Wednesday) until the nearshore allocation is taken, or September 30, whichever is earlier. The all-depth fishing season commences on May 1, and continues 4 days a week (Thursday – Sunday) until 12,799 lb (5.81 mt) are estimated to have been taken and the season is closed by the Commission, or September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, flatfish species, and lingcod caught north of the Washington-Oregon border during the month of May, when allowed by Pacific Coast groundfish regulations, during days open to the all-depth fishery only.

(iv) Taking, retaining, possessing, or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.) (Oregon Central Coast subarea), is 240,812 lb (109.23 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences June 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, until the sub-quota for the central Oregon “inside 40-fm” fishery of 28,897 lb (13.11 mt) or any in-season revised subquota, is estimated to have been taken and the season is closed by the Commission, or October 31, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at 50 CFR 660.71(k).

(B) The second season (spring season), which is for the “all-depth” fishery, is open May 11, 12, 13; 18, 19, 20; June 1, 2, 3; 8, 9, 10; and 15, 16, 17. The allocation to the spring season all-depth fishery is 151,172 lb (68.57 mt). If sufficient unharvested quota remains for additional fishing days, the season will re-open. Possible re-opening dates are June 29, 30, July 1; 13, 14, 15; and 27, 28, 29. Notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) The third season (summer season), which is for the “all-depth” fishery, will be open August 4, 5; 18, 19; September 1, 2; 15, 16; 29, 30; October 13, 14; 27 and 28, and

will continue until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. The allocation to the summer season all-depth fishery is 60,203 lb (27.31 mt). NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning August 18 and ending October 31 or when there is insufficient quota remaining, whichever is earlier. If, after September 4, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 8 and 9, and ending October 31 or upon quota attainment, whichever is earlier. After September 4, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing when the groundfish fishery is restricted by depth, no groundfish may be taken and retained, possessed or landed, except

sablefish, Pacific cod and flatfish species when allowed by groundfish regulations, if halibut are on board the vessel. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed or landed if halibut are on aboard the vessel. During days open to nearshore halibut fishing, flatfish species may be taken and retained seaward of the seasonal groundfish depths restrictions, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at 50 CFR 660.70(f).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42° 40.50' N. lat.) to the Oregon/California Border (42° 00.00' N. lat.) (Southern Oregon subarea) is 10,039 lb (4.55 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(iii) No Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish, Pacific cod, and flatfish species, in areas closed to groundfish, if halibut are on board the vessel.

(g) The quota for landings into ports south of the Oregon/California Border (42°00.00' N. lat.) and along the California coast is 34,580 lb (15.69 mt).

(i) The fishing season will be open May 1 through June 15, July 1 through July 15, August 1 through August 15, and September 1 through October 31, or until the subarea quota is estimated to have been taken and the season is closed by the Commission, or October 31, whichever is earlier. NMFS will announce any closure by the Commission on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(ii) The daily bag limit is one halibut of any size per day per person.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Council, the North Pacific Fishery Management Council, and the Secretary. Section 5 of the Halibut Act (16 U.S.C. 773c) provides the Secretary with the general responsibility to carry out the Halibut Convention between Canada and the United States for the management of Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and Halibut Act. This action is consistent with the Secretary's authority under the Halibut Act.

This action has been determined to be not significant for purposes of Executive Order 12866.

When an agency proposes regulations, the Regulatory Flexibility Act (RFA) requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Analysis (IRFA) document that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a FRFA that takes into consideration any new information and public comments. This FRFA incorporates the IRFA and a summary of the analyses completed to support the action. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and are not repeated here. Below is a summary of the full analysis contained in the FRFA.

The FRFA must contain: (1) A statement of the need for, and objectives of, the rule; (2) A statement of the significant issues raised by the public comments in response to the IRFA, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available; (5) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an

estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here.

NMFS published the proposed rule on March 7, 2017 (82 FR 11419). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period for the proposed rule closed on March 15, 2017, and no comments were received on the IRFA or the economic impacts of this action. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule. *A description and an estimate of the number of small entities to which the final rule will apply.*

This final rule directly affects charterboat operations, and participants in the non-treaty directed commercial fishery off the coast of Washington, Oregon, and California. Specific data on the economics of halibut charter operations is unavailable. However, in January 2004, the Pacific States Marine Fisheries Commission (PSMFC) completed a report on the overall West Coast charterboat fleet. In surveying charterboat vessels concerning their operations in 2000, the PSMFC estimated that there were about 315 charterboat vessels in operation off Washington and Oregon. In 2000, IPHC licensed 130

vessels to fish in the halibut sport charter fishery. Comparing the total charterboat fleet to the 130 and 142 IPHC licenses in 2000 and 2007, respectively, approximately 41 to 45 percent of the charterboat fleet could participate in the halibut fishery. The PSMFC has developed preliminary estimates of the annual revenues earned by this fleet and they vary by size class of the vessels and home state. Small charterboat vessels range from 15 to 30 feet and typically carry 5 to 6 passengers. Medium charterboat vessels range from 31 to 49 feet in length and typically carry 19 to 20 passengers. (Neither state has large vessels of greater than 49 feet in their fleet.) Average annual revenues from all types of recreational fishing, whale watching and other activities ranged from \$7,000 for small Oregon vessels to \$131,000 for medium Washington vessels. These data confirm that charterboat vessels qualify as small entities under the RFA.

Commercial harvest vessels in West Coast fisheries are generally considered “small vessels” unless they are associated with a catcher-processor company or affiliated with a large shorebased processing company. Catcher-processors cannot target halibut or keep halibut as bycatch. NOAA is unaware that any “large” seafood processing companies are affiliated with any of the IPHC permit holders.

Charterboats and the non-treaty directed commercial fishing vessels are considered small businesses. In 2016, 607 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: the directed commercial fishery (159 licenses in 2016) and the incidental fishery in the sablefish primary fishery in Area 2A (8 licenses in 2016); incidental halibut caught in the salmon troll fishery (310 licenses in 2016); and the charterboat fleet (120 licenses in 2016). No vessel may participate in more than one of these three fisheries per year. These license estimates indicate the maximum number of

vessels that participate in the fishery, and may be an overestimate because some vessels that obtain a license do not always participate in the halibut fishery. IPHC estimates that 60 vessels participated in the directed commercial fishery, 100 vessels in the incidental commercial (salmon) fishery, and 13 vessels in the incidental commercial (sablefish) fishery. Recent information on charterboat activity is not available; prior analysis indicated that 60 percent of the IPHC charterboat license holders may be affected by these regulations.

The major effect of halibut management on small entities will be from the internationally set TAC decisions made by the IPHC. Based on the recommendations of the states and the Council, NMFS is implementing minor changes to the Plan to provide increased recreational and commercial opportunities under the allocations that result from the TAC. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionate negative effect on small entities versus large entities. These minor changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities.

A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and the reason that each one of the other significant alternatives to the rule considered by the agency was rejected.

There were no significant alternatives to the final rule that would minimize any significant impact on small entities. The Council recommended minor changes including updates to sport fishery season dates, a new state-wide season date structure for

Washington sport fisheries, catch monitoring improvements in Puget Sound, and refining management measures to better control fishing effort on Pacific halibut and bycatch of co-occurring species such as lingcod and yelloweye rockfish. The purpose of these changes is to allow increased access to quota of halibut and co-occurring species, reduce bycatch of overfished species, and improve management precision. In developing the minor changes to the Plan that it recommended to NMFS, the Council considered and accepted public comment on alternatives. In large part, these included “status quo” and “action” alternatives, where “status quo” represented the 2016 Plan. For example, with respect to a change from fixed seasons to inseason monitoring and management in Puget Sound, the Council considered retaining current management or changing to inseason monitoring and management.

For the change to lingcod retention in the portion of the Columbia River subarea north of the Oregon/Washington border, the Council considered an alternative that would cap the number of lingcod that could be retained on halibut trips, in addition to an alternative that would allow unlimited lingcod retention. Also, the Council considered a few minor changes that were not adopted. These changes included non-tribal allocation changes among commercial and recreational Pacific halibut fisheries, as well as shifting quota among Oregon state’s recreational fisheries. Changing allocation schemes between the non-tribal commercial and recreational fisheries proved to be difficult, and the Council ultimately decided that the potential benefits were too few. The Council chose to maintain the current Oregon recreational season structures, because other management measures were developed to reduce yelloweye rockfish bycatch that did not require changes to the season structures.

The changes to the Plan are expected to slightly increase fishing opportunities in some areas at some times and to slightly decrease fishing opportunities in other areas at other times. None of these changes are controversial and none are expected to result in substantial environmental or economic impacts. These actions are intended to enhance the conservation of Pacific halibut, to provide angler opportunity where available, and to protect overfished groundfish species from incidental catch in the halibut fisheries. NMFS does not consider the changes to the plan that were considered by the Council to constitute significant alternatives; therefore, NMFS did not analyze alternatives to the above changes to the Plan other than the proposed changes and the status quo for purposes of the FRFA. Effects of the status quo and the final changes are similar because the changes to the Plan for 2017 are not substantially different from the 2016 Plan. The changes to the Plan are not expected to have a significant economic impact.

The changes to the Plan and codified regulations are authorized under the Halibut Act, implementing regulations at 50 CFR 300.60-65, and the Council process of annually evaluating the utility and effectiveness of Area 2A halibut management under the Plan. The sport and commercial management measures implement the Plan by managing the fisheries to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The changes to the Plan and domestic management measures do not include any new reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations. Consequently, these changes are not expected to have a "significant" economic impact on a "substantial number" of small entities. Nonetheless, NMFS has prepared a FRFA, for which the full analysis is available from the Council or NMFS (see **ADDRESSES**).

There are no projected reporting or recordkeeping requirements associated with this action.

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

NMFS prepared an environmental assessment (EA) for the continued implementation of the Plan in 2014 and the Plan changes for 2017 are not expected to have any effects on the environment beyond those discussed in the EA and in the finding of no significant impact (FONSI). A copy of the EA is available from NMFS (see **ADDRESSES**).

NMFS conducted a formal Section 7 consultation under the Endangered Species Act (ESA) for the Area 2A Catch Sharing Plan for 2017 (March 17, 2017) addressing the effects of implementing the Plan on ESA-listed yelloweye rockfish, canary rockfish, and bocaccio in Puget Sound, the Southern Distinct Population Segment of green sturgeon, salmon, marine mammals, and sea turtles. In the biological opinion the Regional Administrator determined that the implementation of the Plan for 2017 is not likely to jeopardize the continued existence of Puget Sound yelloweye rockfish, Puget Sound canary rockfish, Puget Sound bocaccio, Puget Sound Chinook, Lower Columbia River Chinook, and southern green sturgeon. It is not expected to result in the destruction or adverse modification of critical habitat for green sturgeon or result in the destruction or adverse modification of proposed critical habitat for Puget Sound yelloweye rockfish, canary rockfish, or bocaccio. In addition, the opinion concluded that the implementation of the Plan is not likely to adversely affect marine mammals, the remaining listed salmon species and sea turtles, and is not likely to adversely affect critical habitat for Southern resident killer whales, leatherback sea turtles, any listed salmonids, and humpback whales. Further, the Regional Administrator determined, in a letter dated March 12, 2014, that implementation of the Plan will have no effect on the southern DPS of eulachon.

NMFS has initiated consultation with the U.S. Fish and Wildlife Service on the effects of the halibut fishery on seabirds, bull trout, and sea otters. This consultation is not complete at this time. NMFS has prepared a 7(a)(2)/7(d) determination memo under the ESA concluding that any effects of the 2017 fishery on listed seabirds are not likely to jeopardize the continued existence of any listed species; nor will it make an irreversible or irretrievable commitment of resources by the agency.

NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective upon publication in the **Federal Register**, pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective on April 1, 2017, when incidental halibut retention in the sablefish primary fishery begins, or as soon as possible thereafter. This rule includes NMFS' approval of the Council's recommended changes to the Plan for 2017. The Catch Sharing Plan includes the allocation to the sablefish primary fishery. Additionally, the Council's 2017 Plan approved in this rule includes changes that respond to the needs of the fisheries in each state, including fisheries that begin in early May. Therefore, allowing the 2016 subarea allocations and Plan to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2017. For these reasons, a delay in effectiveness could cause economic harm to the fishing industry and associated fishing communities by reducing fishing opportunity at the start of the fishing year to keep catch within the lower 2016 allocations or result in harvest levels inconsistent with the best available scientific information. As a result of the potential harm to fishing communities that could be caused by delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective upon publication in the Federal Register.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

Authority: 16 U.S.C. 951 *et seq.*, 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 5501 *et seq.*,
16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

Dated: April 17, 2017

Alan D. Risenhoover,
Acting Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300, subpart E, is amended
as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E – Pacific Halibut Fisheries

1. The authority citation for part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773-773k.

2. In § 300.63, add paragraph (c)(1)(v), revise paragraphs (c)(2)(iv) and (v), add paragraph (c)(2)(vi), and revise paragraph (e)(2) to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in area 2A.

* * * * *

(c) * * *

(1) * * *

(v) Notwithstanding regulations at (c)(1)(i) of this section, if the total estimated
yelloweye rockfish bycatch mortality from recreational halibut trips in all Oregon

subareas is projected to exceed 22 percent of the annual Oregon recreational yelloweye rockfish harvest guideline, NMFS may take inseason action to reduce yelloweye rockfish bycatch mortality in the halibut fishery while allowing allocation objectives to be met to the extent possible.

(2) * * *

(iv) Modification of sport fishing days per calendar week;

(v) Modification of subarea quotas; and

(vi) Modification of the Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) restrictions off Oregon using YRCA expansions as defined in groundfish regulations at 50 CFR 660.70(g) or (h).

* * * * *

(e) * * *

(2) Non-treaty commercial vessels operating in the incidental catch fishery during the sablefish primary fishery north of Pt. Chehalis, Washington, in Area 2A are required to fish outside of a closed area. Under Pacific Coast groundfish regulations at 50 CFR 660.230, fishing with limited entry fixed gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land halibut taken with limited entry fixed gear within the North Coast Commercial YRCA. The North Coast Commercial YRCA is an area off the northern Washington coast, overlapping the northern part of the North Coast Recreational YRCA, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.70(b).

* * * * *

